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PP RUEHBC RUEHDE RUEHDH RUEHIHL RUEHKUK
DE RUEHGB #2925/01 3061406
ZNY CCCCC ZZH
P 021406Z NOV 09
FM AMEMBASSY BAGHDAD
TO RUEHC/SECSTATE WASHDC PRIORITY 5318
INFO RUCNRAQ/IRAQ COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 002925

SIPDIS

E.O. 12958: DECL: 10/25/2019

TAGS: [PHUM](#) [PGOV](#) [IZ](#)

SUBJECT: ESTABLISHMENT OF HUMAN RIGHTS COMMISSION COMES
UNDER FIRE

Classified By: Political Counselor Yuri Kim for Reasons 1.4 (b) and (d)
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11. (C) SUMMARY: The GOI has announced members of the Advisory Council for Iraq's Human Rights Commission, marking a step toward the establishment of an independent human rights commission. The 14-member Advisory Council, composed of representatives from the Council of Ministers, Council of Representatives (COR), judiciary, civil society, and the UN, has the task of selecting the organization's commissioners with the goal of creating a non-partisan and independent body. However, the Advisory Council is already being criticized for how members were selected and whether they will be capable of choosing commissioners who are independent of party or sectarian bias. Additional questions have been raised as to how the Commission will function vis-a-vis the Ministry of Human Rights. END SUMMARY.

Establishing an Independent Commission

12. (SBU) In November 2008, the COR passed implementing legislation for the creation of an independent Human Rights Commission, as called for in Article 99 of the Iraqi Constitution. The Commission is intended to be distinct from the Ministry of Human Rights and independent of the government and thus capable of criticizing the GOI even when it might not be politically expedient for the Ministry itself to do so. In order to establish the Human Rights Commission, the implementing legislation called for the creation of an Advisory Council composed of representatives from the Council of Ministers, the COR, the judiciary, civil society, and the UN. After nearly a year, the members of the Advisory Committee have been finalized and include: MPs Hunein al-Qaddo (chairman), Zakia Hakki, Shatha al-Obosi, Ala Talabani, Ahlam Asad, and Hassan Tuma, as well as Sadiq Rikabi, Farhad Hussein and Arkan Saleh from the Council of Ministers. The judicial representatives are Judges Jaffar Hussein, Akram Mohammed and Abdul Bari Hamid, and the NGO representatives are Ibtisam Shammari, Sami Shati, and UNAMI's Chief Human Rights Officer Tahar Boumedra.

13. (SBU) The purpose of the Advisory Council is to select the 11 members of the Commission along with three alternates who will each serve four-year terms and have the rank of Director General. One-third of the commissioners must be women and at least one must be from a minority community. The Council began accepting applications for the commissioner positions from October 15 until November 15, although Council Chairman al-Qaddo told Poloff that this date might be pushed back in order to allow more time for the positions to be advertised. The Advisory Council has held a press conference and conducted a number of press interviews, including on Al Hurra, to advertise the application process for the new Commission, but has not been able to make a sustained advertising campaign due to lack of funds. Nevertheless, MP Talabani told Poloff on October 28 that 50 applications had already been received. The Council hopes to make its selections by the end of the Parliamentary session in March.

Controversy on Selection Process

14. (C) The selection of the Advisory Council itself has become a topic of controversy with the Minister of Human Rights Wijdan Selim complaining to Poloff on October 22 about the lack of transparency in the selection process. She noted, for example, that the representatives from the Council of Ministers were made by Ali al-Alaq within the PM's office and that she had not been consulted despite heading the Human Rights Ministry. Selim also expressed annoyance that one of her Director Generals, Arkan Saleh, was selected to serve and attributed this to his close ties with the PM's office. Further, she stated that UNAMI was supposed to have selected the representatives from the NGO community, but had not been given the opportunity to do so.

15. (C) Asked to provide clarification on the selection process, Qaddo stated that the Speaker of Parliament Ayad Samarra'i had written to each organization represented on the Advisory Council to request nominations. In selecting which MPs would represent the COR, the Parliament's Human Rights Committee effectively nominated itself while the selections of the NGO representatives were left to Talabani, the head of the Parliament's Civil Society Committee. Talabani confirmed to Poloff that UNAMI was upset that she had made the NGO selections without them.

Independent and non-Partisan?

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16. (C) The controversy over how the Advisory Council was selected has created doubts about whether the Human Rights Commission will in fact be an independent and non-partisan entity. Minister Selim expressed her opinion that the deck had already been stacked against a non-partisan commission and predicted that the commissioners who would ultimately be responsible to their party blocs. Council member al-Obosi expressed a similar sentiment to Poloff on October 15, claiming that Qaddo was too close to the PM (Qaddo recently declared his intention to run with the State of Law coalition) and that Deputy Parliament Speaker Khalid al-Attiyah was already interfering in the Advisory Council's work in attempt to delay any selections until the next Parliamentary session. Even Qaddo and Hakki said they felt that they were under political pressure to consider party affiliation when choosing commissioners. Both claimed that Deputy Parliamentary Speaker Arif Tayfur was questioning their work and that others were threatening to substitute different names for the commissioner positions than those selected by the Advisory Council.

Role of the Commission

17. (C) Once established, the Commission's primary responsibility will be to receive complaints from the public on alleged human rights abuses or reported in the media and then using its quasi-judicial authority to file complaints as needed with the Iraqi judicial system. Qaddo said the Commission will also be charged with writing annual reports to the COR and working with other organizations to promote a culture of human rights in Iraq, but that the commissioners will be free to set their own agenda.

18. (C) For their part, officials at the Ministry of Human Rights have expressed concern about the Commission's mandate. Ministry Director General Sa'ad Fatahallah told Poloff on October 14 that the Commission had essentially taken the

mandate of the Ministry to investigate human rights abuses and to issue reports. Fatahallah said that while the Ministry supports the commission, that the Ministry had initiated discussions with the Shura Council to change the law governing its own mandate. Minister Selim said her concern was that the Commission would ultimately be used as a justification to abolish her ministry, which she felt was beginning to hit its stride after six years of work. Asked about this possibility, Qaddo said the original legislation for the Commission called for abolishing the Ministry, but that this language was dropped for a reason. Qaddo said he thought there were so many human rights violations in Iraq that there was enough work for everyone, but thought that the Ministry should focus its efforts on the dissemination of human rights training within the Ministries of Defense, Interior, Justice, and Education as well as continuing its work on the issue of mass graves. Talabani did not conceal her desire to abolish the Ministry once the Commission was up and running.

19. (C) COMMENT: The recent progress in establishing an independent Human Rights Commission is an important step for Iraq as it seeks to flesh out the implementation of the various articles of its Constitution. The Embassy is also providing support (equipment and training) to the Advisory Council via American University, one of its DRL-grantees. There are concerns that the nascent Commission through the Advisory Council will overstep its mandate and attempt to replace the Ministry of Human Rights. That would be unfortunate and represent a distortion of the original guiding principals behind its creation. There are also legitimate concerns as to whether the Advisory Council will be able to put commissioners in place who are indeed independent and non-partisan especially given the impending onset of an electoral campaign season. However, as with the Independent High Electoral Commission (IHEC), the affiliation of commissioners with party blocs does not necessarily make them incapable of performing their duties for the benefit of all Iraqis. END COMMENT.
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